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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the expert workshop on the role and contribution of civil society organizations, academia, national human rights institutions and other relevant stakeholders in the prevention of human rights abuses

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In its resolution 33/6, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights to organize an expert workshop to discuss the role and contribution of civil society organizations, academia, national human rights institutions and other relevant stakeholders in the prevention of human rights abuses, drawing on the conclusions and recommendations of the study on the role of prevention in the promotion and protection of human rights (A/HRC/30/20). The present report provides a summary of the expert workshop that was held in Geneva on 21 and 22 February 2018, including its recommendations.

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I. Introduction

1. On 21 and 22 February 2018, the Office of the United Nations High Commissioner for Human Rights (OHCHR) organized, pursuant to Human Rights Council resolution 33/6, an expert workshop to discuss the role and contribution of civil society organizations, academia, national human rights institutions and other relevant stakeholders in the prevention of human rights abuses. As requested by the Human Rights Council, the expert workshop drew on the conclusions and recommendations of the OHCHR study on the role of prevention in the promotion and protection of human rights (A/HRC/30/20).

2. Representatives of 31 States, 20 civil society organizations, 10 national human rights institutions, 2 intergovernmental organizations and 2 United Nations entities, and 3 treaty body committee members, 3 academics and 1 Special Rapporteur, attended the expert workshop in Geneva.

II. Opening statement

3. In her opening remarks, the United Nations Deputy High Commissioner for Human Rights emphasized that people must be put at the heart of prevention and human rights must be put at the heart of society. In this, the focus must be inclusive of all, and sensitive to economic, social and cultural rights, not just civil and political rights. With regard to the meaning of the term "prevention", she pointed to the approach of public health professionals who use the idea of different levels of prevention as building blocks of a holistic approach. Primary prevention efforts address root causes — stopping the problem before it occurs and making reoccurrence less likely. Secondary prevention focuses on a rapid response to the earliest signs — seeking to minimize early impacts and taking measures necessary to make recovery sustainable and escalation improbable. Tertiary prevention aims to minimize harm once the problem is in full flight. The fourth level, primordial prevention, focuses preventive efforts more squarely on establishing and maintaining conditions that minimize future threats and maximize conditions that are antithetical to that which is being prevented.

4. She argued that efforts to prevent human rights abuses had focused on tertiary and late-secondary responses, with too little effort globally on primary prevention of the root causes, which included the socioeconomic drivers of injustice and conflict. From a human rights perspective, the prevention discourse should not be a question only of mainstreaming human rights into the peace and security agenda, but also of mainstreaming human rights into the development agenda. The 2030 Agenda for Sustainable Development, implemented with a human rights-based approach, could enable the Sustainable Development Goals to improve the situation for all. Furthermore, she noted that the guidelines and standards developed by the Human Rights Council, and the recommendations of other human rights mechanisms, such as those of the universal periodic review, were important tools but would need greater efforts for their implementation. Finally, she called for a focus on primordial prevention that would establish and maintain conditions which minimized future threats and maximized patterns that were antithetical to human rights erosion over the longer term. In that context, she stressed the importance of convincing and engaging young people, because if we did not win their trust and conviction, then prevention efforts would ultimately fail.

5. She highlighted the crucial and irreplaceable, but often underestimated, contribution that civil society organizations, academia, national human rights institutions and other relevant stakeholders made in the prevention of human rights abuses. She stressed that, while orthodox models of conflict prevention had been rooted in militarization and securitization, civil society was a key actor in finding solutions for non-militarized long-term solutions founded on human rights, good governance and sustainable inclusive

development. There was empirical evidence of a close linkage between a strong civil society and positive trends for human rights.[1]

6. She recalled that, while States bore the primary duty to protect their populations from human rights abuses, the engagement for prevention must extend to national human rights institutions, civil society, academia and private actors. Erosions of freedoms of expression, peaceful assembly and association were warning signs of broader repressive intent, as were attacks on the freedom of movement of human rights defenders, political opponents, lawyers and journalists. A protective, inclusive and enabling environment for civil society, in law and in practice, was vital for prevention, particularly when combined with independent national human rights institutions, active participation by women and young people, and safe and open access to international human rights bodies.

III. Overview of panel presentations and discussions

7. At the outset, the Permanent Representative of Ukraine to the United Nations Office and other international organizations in Geneva welcomed the Deputy High Commissioner's vision for prevention as outlined in her opening statement and the organization of the expert workshop. Preventive measures were gaining importance as an effective tool in averting conflict, and he referred to the various resolutions adopted by the General Assembly and the Human Rights Council since 2010 in relation to prevention.

A. Towards a framework approach to prevention

8. The first session was focused on possible avenues towards a comprehensive framework approach to prevention. It was moderated initially by the Director of the Thematic Engagement, Special Procedures and Right to Development Division and subsequently by the Head of the Secretariat of the Commission of Inquiry on Burundi. The panellists were Ivan Šimonović, Special Adviser of the Secretary-General on the Responsibility to Protect; Matt Pollard, Director of the Centre for the Independence of Judges and Lawyers at the International Commission of Jurists; Jasminka Džumhur, Ombudsperson of Bosnia and Herzegovina; Khawla Chabbeh, of the Syndicat national des journalistes tunisiens; and Phil Lynch, Director of the International Service for Human Rights.

9. Mr. Šimonović noted that the sooner there was a warning, the better the chances were for successful prevention, if that early warning was passed on to relevant stakeholders who then took effective action. He stressed that human rights abuses, especially discrimination against groups on the basis of their identity, were an early warning sign of an increasing risk of atrocity crimes. In terms of instruments for both early warning and early action, he referred to the universal periodic review, the work of special procedures and treaty bodies, and OHCHR field activities. He noted that the primary responsibility for atrocity crimes prevention under the responsibility to protect lay with Member States, however intergovernmental mechanisms, regional organizations, United Nations entities and civil society also had important roles to play. The Human Rights Council should regularly and promptly receive from the High Commissioner updates on country situations where the human rights situation was deteriorating and the risk of atrocity crimes was increasing. When human rights abuses reached the threshold of potential atrocity crimes, thereby threatening international peace and security, the Human Rights Council should recommend to the Security Council to put the country situation on its agenda. When more information was needed, the Human Rights Council should be faster in mandating commissions of inquiry or independent experts.

10. He suggested that the Security Council should establish an atrocity crimes prevention committee in order to create opportunities for relevant United Nations entities, non-members and civil society to reflect together with Security Council members on

[1] See A/HRC/37/65, para. 62.

measures that should be taken to prevent atrocity crimes. Furthermore, the United Nations should have an integrated information management system for early warning of atrocity crimes, bringing together information and assessments of various United Nations entities dealing with human rights, conflict prevention, rule of law and humanitarian issues. Civil society should also be supported to collect and analyse information relevant to atrocity crime risk assessment. He encouraged civil society to include related information in their submissions to the universal periodic review and suggested mobilizing informal structures, such as traditional elders, religious leaders, community leaders, youth, and women's groups. Finally, he noted that while women were often the first civilian victims of atrocity crimes, they did not have a proportional role in atrocity prevention, and he therefore recommended strengthening their influence in conflict prevention, peacemaking, atrocity crimes prevention and transitional justice processes.

11. Mr. Pollard added that judges, lawyers and prosecutors were playing a key role, not only in responding to human rights violations and abuses after they had occurred, but also in prevention efforts. However, that required a legal framework in which judges were independent and impartial, lawyers were independent and free to fulfil their duties, and prosecutors were impartial and committed to human rights and the rule of law. He noted that the special roles of judges, lawyers and prosecutors had long been established in related international standards,[2] and were also recognized in prevention-related reports by OHCHR,[3] special procedures[4] and States.[5]

12. In order to illustrate how judges, lawyers and prosecutors could contribute to prevention, he referred to judicial review of legislation and the possibility for individuals or organizations to challenge the validity or application of legislation. It was essential for claimants to have access to lawyers. In some States legal aid was provided, while in others the legal profession or individual lawyers organized pro bono assistance. Furthermore, torture became less likely if prosecutors refused to use evidence that they reasonably suspected had been obtained through torture. Moreover, anyone deprived of liberty must have access to an independent lawyer as soon as possible, and in any case within 48 hours. The risk of arbitrary detention was reduced if the deprivation of liberty could be challenged before an independent and impartial judge. Individuals and organizations should be able to seek judicial remedies not only for breaches of civil and political rights, but also of economic, social and cultural rights. He concluded that a pattern of interference with the independence and impartiality of the judiciary, attacks on the independence and freedom of the legal profession, and the instrumentalization of prosecutors were early warning signals of even more widespread and systematic violations of human rights in the future, which should trigger preventive action by relevant mechanisms, including the Human Rights Council.

13. Ms. Džumhur stressed the importance of prevention among the "five Ps" of human rights: prevention, promotion, protection, partnership and participation. Accessibility for protection should be ensured, for example through legal aid, supporting victims and witnesses and avoiding revictimization. Since most national human rights institutions could react to a violation but could not offer legal aid, civil society played an important role as partners in that area. She stressed the need, in post-conflict societies, for transitional justice, and to ensure that national human rights institutions had sufficient resources to implement their mandates in post-conflict situations. In addition, education of civil servants, the judiciary, university students and citizens on international human rights law should be stepped up.

14. She noted that recommendations from treaty bodies and special procedures were valuable, however their domestic dissemination by States was limited. As a good example

[2] The Basic Principles on the Independence of the Judiciary, of 1985; the Basic Principles on the Role of Lawyers, of 1990; the Guidelines on the Role of Prosecutors, of 1990; and the Bangalore Principles of Judicial Conduct, of 2002.

[3] A/HRC/30/20.

[4] A/72/523.

[5] See www.norway.no/en/missions/wto-un/norway-/statements/human-rights/HRC/hrc-36th-session-11---29-september-2017/joint-statement-on-councils-prevention-mandate/.

in this context, she referred to the practice, adopted by the OHCHR field presence in Bosnia and Herzegovina, of compiling and periodically publishing treaty body recommendations. Furthermore, the national human rights institutions in the Balkans region had signed a cooperation agreement in 2002 and had subsequently developed joint activities, including on their role in national court cases. Finally, she recommended that States adopt national human rights action plans and develop early warning systems, which should include designing indicators and procedures that could bring human rights matters into focus at an early stage, rather than only reacting to violations.

15. Ms. Chabbeh provided examples from Tunisia, from a journalist's perspective, of when prevention works. She noted that the national union of journalists had drafted a plan to protect journalists from attacks and had been working with OHCHR in Tunis and with the United Nations Educational, Scientific and Cultural Organization (UNESCO) in order to educate law enforcement officials, monitor violations of press freedom, and raise awareness among media professionals, government officials, judges and prosecutors concerning impunity for attacks against journalists.

16. She noted that, since September 2015, the national union of journalists had had a unit for monitoring attacks against journalists in Tunisia, with one coordinator, two monitors and a lawyer documenting attacks against journalists, publishing regular reports and coordinating legal support for journalists. All activities followed a gender-sensitive approach, based on international standards and good practices. Furthermore, the national union of journalists was trying to ensure that the mandate of the national human rights institution in that area was strengthened. The scope of the unit's work had been broadened since 2016 to include issues such as safety at work, access to government documents, the right to protect sources of information, and accountability. She noted that this would help strengthen freedom of expression and hoped that Tunisia would develop a national strategy to assist and protect journalists. The moderator added that the Tunisian national union of journalists was the first worldwide to set up such a monitoring unit, which could be replicated elsewhere in order to prevent human rights violations.

17. Mr. Lynch stressed that attacks against human rights defenders, including journalists, were a warning sign of further human rights violations and abuses. Human rights defenders needed a safe and enabling environment for their work. He welcomed the fact that Burkina Faso, Côte d'Ivoire and Mali were developing protection mechanisms for human rights defenders. Prompt and effective action was needed to deal with attacks on human rights defenders, including by the Human Rights Council and other United Nations human rights mechanisms. In that context, he referred to the principles outlined in a joint statement delivered by Ireland on behalf of 32 States during the Council's session in July 2016.[6]

18. Furthermore, he suggested that the Special Adviser to the Secretary-General on the Responsibility to Protect should brief the Human Rights Council on emerging situations of concern. Since journalists and human rights defenders were sometimes the only source of information on the ground, their cooperation with the Council was vital to enable it to act properly. Acts of reprisal impeded the Council from accessing information and constituted themselves human rights violations. The President of the Council and the Bureau members, as well as the Assistant Secretary-General for Human Rights, had duties to address intimidation and reprisals against those cooperating with the United Nations on human rights. Dealing promptly with attacks against human rights defenders was crucial to avoiding further harm and ensuring accountability.

19. During the ensuing discussion, it was stressed that civil and political rights and economic, social and cultural rights should be addressed equally. It was important to leave no one behind, as demonstrated by the example of rural, illiterate elderly women who were among the most disadvantaged, but who — since they did not pose a risk to stability — tended to be less visible, or less able to bargain with governments, than those who drove

[6] See www.dfa.ie/our-role-policies/international-priorities/human-rights/ireland-and-the-human-rights-council/irelands-statements-hrc-32nd-session/preventingrespondingtoandaddressinghumanrights violations-jointconcludingstatement/.

conflict. At the primary prevention level, participants stressed the need to act before people's rights were affected, for example by conducting human rights impact assessments of tax policies and of economic reform policies.[7] A change in mindset was considered necessary — rethinking how prevention was understood in the human rights context. This was illustrated by the large scope of preventive work undertaken by the Subcommittee on Prevention of Torture that encompassed any form of abuse of people deprived of their liberty which, if unchecked, could grow into torture or other cruel, inhuman or degrading treatment or punishment.

20. Participants noted that national human rights institutions were uniquely placed to help implement the State's obligations in ways that avoided human rights violations, and their participation in the Human Rights Council, treaty bodies and other processes was considered vital to connect the national and international levels. However, participants noted that even if the relevant stakeholders had all the required information, there was often a bottleneck that thwarted early action, due to a lack of political will or deadlock in the Security Council. Furthermore, concerns were raised that human rights defenders might be so afraid of reprisals that they did not submit any complaints to national or international mechanisms. The most recent report of the Secretary-General on reprisals (A/HRC/36/31) had identified patterns that seemed to reflect a strategy by some States of preventing individuals from providing information or otherwise cooperating with the United Nations on human rights. To reduce the risk of reprisals, it was suggested to introduce a tracking system for human rights defenders after they returned to their home country, and if that person went missing, to ask family members or friends and subsequently inquire with the Government concerned via the Human Rights Council.

B. Human rights education

21. The Chief of the Methodology, Education and Training Section of OHCHR moderated the session on human rights education. The panellists were Gift Kgomosotho, of the South African Human Rights Commission; Nika Kvaratskhelia, Head of the Department of Prevention and Monitoring at the Office of the Public Defender of Georgia; and Caroline Dayer, expert in the prevention of violence and discrimination for the Canton of Geneva.

22. Mr. Kgomosotho provided examples of human rights education and the role of the South African Human Rights Commission. Its mandate as an independent State institution included monitoring human rights inside the country, addressing violations, raising awareness, providing training, and working towards a culture of human rights. He stressed that enjoyment of human rights and prevention of abuses depended on the level of awareness, and thus education was crucial to empowerment and access to rights. According to a survey undertaken in 2014 by the country's Foundation for Human Rights, only 10 per cent of the population had read the Bill of Rights contained in the Constitution of South Africa, or had had it read to them. In that context, the Commission's Advocacy Unit organized workshops, developed curricula together with UNESCO, lobbied departments, held school activities on human rights day and trained police and public health-care workers. Following a recent racist advertisement for clothing, the Commission had started working with the manufacturer concerned, getting human rights messages printed on clothing and receipts.

23. He also highlighted the Commission's role in co-organizing the national schools moot court competition. All secondary schools in South Africa were invited to enter teams, which submitted essays for the applicant and the respondent on the basis of a hypothetical case.[8] Arguing both sides was an important skill in human rights education, as it allowed students to develop their research, writing and advocacy skills. The competition was co-organized with the Department of Justice and Constitutional Development, the Department of Basic Education, the University of Pretoria, the Foundation for Human Rights and the

[7] See A/HRC/37/54.

[8] See www.up.ac.za/national-schools-moot-court-competitions-nsmcc.

Constitutional Court. Starting from 2019, the competition would also be open to grade 9 learners, and it had already been used in Ghana and Mozambique. He noted that such moot court competitions were a primary form of prevention, improving youth human rights literacy and targeting future decision makers.

24. Mr. Kvaratskhelia shared his experiences in Georgia on human rights education in the context of torture prevention. He noted that, pursuant to article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States parties must take effective legislative, administrative, judicial or other measures to prevent acts of torture. Broad factors, including the rule of law, the level of poverty, corruption and exclusion, could have an impact on how effective States' measures were. Inadequate human rights education was at the root of human rights violations, including torture. The Public Defender of Georgia regarded awareness-raising as part of cultural change, and therefore had established a human rights academy in 2015. Since then, the Office of the Public Defender had provided 56 training sessions, both to rights holders and to duty bearers, with a total of 1,200 participants. Furthermore, professors delivered lectures, and thus the academy served as a bridge between theory and practice.

25. He stressed that human rights education should be provided by the State. In order to prevent torture in places of deprivation of liberty, training for penitentiary staff and prisoners was key. He noted that prisoners who had participated in training sessions had started citing the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)[9] in their complaints. The Office of the Public Defender of Georgia — the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — had drafted 74 special reports and had issued 1,800 public statements in the media. The Office of the Public Defender had also published monthly bulletins, conducted social media campaigns, intervened as amicus curiae in legal proceedings, and hosted international conferences and internships for university students. He highlighted the power of education as a safe and durable solution to prevent human rights violations.

26. Ms. Dayer noted that preventing violence and discrimination was relevant for pupils and adults, for example in the context of cyberharassment and harmful stereotypes in schools. To prevent violence and discrimination, it was necessary to take action ahead of time and promote human rights and equality. Pedagogical tools may help in addressing insults and harassment, by providing human rights-based guidance, however those tools also needed to be implemented in a non-discriminatory manner by staff. Teachers played an important role in reacting to messages of inequality or violence. The first step was intervention, because the situation tended to worsen when adults did not intervene. As a second step, there should be prevention through human rights education, and frameworks to prevent human rights abuses in the future.

27. She recommended that interventions to prevent violence and discrimination at schools should address the individual, collective and institutional/political levels. Action at the individual level included working on a professional and consistent approach by the adults. At the collective level, adults and students needed a network and contact persons. At the institutional/political level, students should be able to draw up their own projects, because youth participation was very important. She noted that many specific actions could be carried out, however they needed to be part of a broader framework and to be rooted in the needs of each institution. She stressed that equality activities organized for international days, for example against racism and homophobia, were important tools in human rights education.

28. During the discussion, participants exchanged further examples of training for children and for rural workers, including through youth clubs and video clips. Moreover, a children's parliament could make contributions to the national parliament on issues affecting children. The need to adapt the tools and methodology, based on the age of the child, and to tailor the communication to the addressee, was underscored. Furthermore, tools for impact assessments were required in order to measure the effectiveness and

[9] See General Assembly resolution 70/175, annex.

efficiency of educational activities. Finally, participants recommended intersectoral collaboration between the government, the judiciary, the parliament, the national human rights institution, civil society and academia, because all parts of society had a specific and interconnected role to play in human rights education.

C. Preventing human rights abuses by private actors

29. The third session, which focused on preventing human rights abuses by private actors, was moderated by a human rights officer from the Women's Human Rights and Gender Section of OHCHR. The panellists were Zainah Anwar, Director of the global civil society movement Musawah; Matthias Thorns, Director of Stakeholder Engagement at the International Organization of Employers; and Lene Wendland, Chief of the Human Rights and Economic and Social Issues Section of OHCHR.

30. Ms. Anwar focused her presentation on the work of women's rights groups in countries where private actors and State authorities used religion to justify human rights violations and abuses. She noted that the Convention on the Elimination of All Forms of Discrimination against Women was the human rights treaty that had attracted the most reservations, with some 60 per cent based on religion, notably on its article 16 regarding marriage and family relations. Therefore women's demands were thwarted in many States, and she noted that the work of women's rights groups was demonized as being against Islam or morality. There was limited space for debate and change, with little reflection of women's rights in decision-making processes. She noted that if it was only religious leaders who were seen to have the right to talk about Islam, then women would fear speaking out; many secular human rights activists had also disengaged with religious issues. However, non-governmental organizations such as Sisters in Islam (at the national level) and Musawah (at the international level) were working to build knowledge and courage to deal with a misogynistic reading of religion. Civil society efforts, for example writing letters to newspapers, submitting memorandums for law reform, and challenging in court a book ban and fatwa against Sisters in Islam, aimed to build a rights-based democratic culture.

31. She asserted that religion could be a source of empowerment and liberation if ideological non-State actors ceased silencing any demands for equality. Musawah had undertaken capacity-building and engaged in international advocacy, including by submitting to the Committee on the Elimination of Discrimination against Women thematic reports and country-specific statements on reservations that justified the repression of women. Furthermore, she noted that the Beirut Declaration and its 18 commitments on "Faith for Rights" was important in order to turn the principles into action on the ground, for example by refining curriculums, teaching materials and textbooks wherever some religious interpretations, or the way they were presented, may give rise to the perception of condoning violence or discrimination (twelfth commitment).[10] She stressed the importance of devising a human rights-based counter-narrative in order to build knowledge and prevent violent extremism.

32. Mr. Thorns addressed the prevention of abuses by companies, in line with the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex). The related due diligence process served in better understanding whether a company had potential or actual human rights issues. In practice, however, there may be challenges in view of the high number of suppliers and intermediaries of transnational companies. Progress had been made in the past decade with the increasing use of due diligence and with the endorsement of the Guiding Principles in 2011. Due diligence had also been introduced in French law,[11] the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises.

33. Companies were expected to be transparent regarding the findings on their human rights practices, however he emphasized that companies faced criticism when they declared problems in their supply chain and could consequently be removed from the United Nations

[10] See www.ohchr.org/Documents/Press/Faith4Rights.pdf.

[11] See www.assemblee-nationale.fr/14/ta/ta0924.asp.

Global Compact. He argued that companies should be supported when they were transparent in order to encourage them to address human rights issues and become agents for change. People who had been affected needed a remedy, and governments were the primary duty bearers to ensure that companies did not violate human rights. Furthermore, national human rights institutions could play a role in mediating disputes where the legal system was not trusted and companies needed to engage with civil society. He provided the example of successful support by trade unions to overcome initial resistance in a local community against the training of women as forklift drivers.

34. Ms. Wendland noted that the Guiding Principles on Business and Human Rights contained three pillars: (a) the State duty to protect human rights through policies, regulation and adjudication; (b) the corporate responsibility to respect human rights by acting with due diligence to avoid infringement and addressing adverse human rights impacts; and (c) access to effective remedy for victims, through judicial, administrative, legislative or other appropriate means. She compared those three pillars to a three-legged chair, where all the pillars needed to function, because otherwise prevention would not work and abuses would follow.

35. She noted that, even where institutions operated optimally, disputes over adverse human rights impacts from company activities were likely to occur and victims must be able to seek redress. Access to remedy would have a preventive effect, because companies would know about their risks and where they needed to improve over time. The OHCHR Accountability and Remedy Project was aimed at enhancing the effectiveness of remedy mechanisms. Its first phase was focused on judicial mechanisms, with guidance for States (see A/HRC/32/19), and its second phase on State-based non-judicial mechanisms (see Human Rights Council resolution 32/10). The third phase would be focused on non-State-based grievance mechanisms.

36. The ensuing discussion addressed the question of the capacity of States to live up to their duty to protect and to ensure that companies respected human rights. At the technical level, and in terms of drafting corporate law, there seemed to be a capacity-building challenge. With regard to the issue of women's rights in various religions, participants stressed the importance of working with religious scholars, understanding how knowledge was produced in a social context, and recognizing that it could be changed because it was subject to human interpretation.

D. Planning and monitoring tools for prevention, including human rights impact assessments

37. The session on planning and monitoring tools for prevention, including human rights impact assessments, was moderated by a human rights officer of the Human Rights and Economic and Social Issues Section and by the Chief of the Rule of Law and Democracy Section of OHCHR. The panellists were Manuela Teixeira Pinto, Deputy Permanent Representative of Portugal to the United Nations Office and other international organizations in Geneva; Nicolas Fasel, adviser on human rights measurement at OHCHR; Olivier De Schutter, Professor at the Catholic University of Louvain and member of the Committee on Economic, Social and Cultural Rights; Jennifer Philpot-Nissen, programme executive for human rights and disarmament at the World Council of Churches; and Rasha Abdul Rahim, adviser on arms control, security trade and human rights at Amnesty International.

38. At the outset, Ms. Teixeira Pinto stressed that prevention was a task for the whole United Nations system and for regional and local mechanisms. She noted a growing interest in the Human Rights Council operationalizing its mandate concerning prevention, and said that the 2030 Agenda also provided an opportunity to interconnect human rights with sustainable development. The universal periodic review was a unique tool of the Human Rights Council, as it allowed national policies to be improved, human rights to be mainstreamed and domestic resilience to be built.

39. She also highlighted the important role of national mechanisms for reporting and follow-up, which engaged with international and regional human rights mechanisms and

coordinated national implementation of treaty obligations and recommendations. For example, since Portugal had created a light structure based on a network of focal points, in 2010, there were no reports to the treaty bodies that were currently outstanding. In Geneva, some 30 States were part of an informal groups of friends on national mechanisms for reporting and follow-up. Those mechanisms could contain a broad range of actors from the related ministries, national human rights institutions, United Nations country teams and OHCHR field presences. Paraguay also had a mechanism to link planning for the implementation of the Sustainable Development Goals with human rights. She noted that Portugal used specific indicators to track implementation of the right to education, violence against women, the right to health and the right to liberty and security of the person.

40. Mr. Fasel underscored the need for appropriate indicators, and data collection and dissemination, for the prevention of human rights violations and abuses. OHCHR had published a guide for measurement and implementation,[12] drawing on internationally agreed standards and encouraging adequate participatory processes for developing contextually relevant indicators. In the context of the Sustainable Development Goals, the indicators developed measured the situation at the level of the population groups concerned, or related to the process and structural indicators. He noted that for traditional data-collection surveys, national statistical offices often did not have access to the most deprived persons, including homeless persons, undocumented migrants, and lesbian, gay, bisexual, transgender or intersex persons. National human rights institutions and civil society organizations had a key role in providing links to those groups.

41. He stressed the importance of using already available data to reveal and measure discrimination and inequalities. National human rights institutions were not necessarily aware of existing data collected by national statistical offices, and vice versa. In its resolution 71/313, the General Assembly had recommended that national statistical systems explore ways to integrate new data sources into their systems to satisfy new data needs of the 2030 Agenda. A lack of robust information could reveal a lack of prevention efforts and could be a human rights indicator in itself. For example, on the eve of the revolution in Tunisia, there were still reports, in 2010, about progress in economic and social terms, whereas human rights mechanisms and civil society voices were showing a different picture, of exclusion, discrimination, censorship and lack of participation. OHCHR had issued guidance on a human rights-based approach to data,[13] focusing on issues of data disaggregation, to leave no one behind in the implementation of the 2030 Agenda and beyond.

42. Mr. De Schutter pointed to several tools, such as the guiding principles on human rights impact assessments of trade and investment agreements (A/HRC/19/59/Add.5), the guiding principles on foreign debt and human rights (A/HRC/20/23) and the guiding principles on extreme poverty and human rights (A/HRC/21/39). He stressed that human rights impact assessments should not be confused with poverty reduction impact assessments; the former were based on the normative framework of human rights law, followed a participatory methodology and did not look just at macroeconomic indicators but also at the impacts on specific groups defined, for example, by gender, ethnicity and age. Human rights impact assessments should be an ongoing process, because not all human rights impacts of certain policies could be fully anticipated. The conclusion of trade and investment treaties should be preceded by human rights impact assessments, and the treaties' impacts following implementation should be regularly assessed. The credibility and effectiveness of human rights impact assessments depended on independence, transparency, inclusive participation, expertise and funding, as well as on status which allowed them to have an impact on how trade programmes were implemented.

43. Mr. De Schutter stressed that human rights impact assessments should be scoped properly, so that it was clear which issues needed analysis. When positive impacts were traded off against negative impacts, such trade-offs should be discussed with all stakeholders and must not result in discriminatory outcomes or a deprivation of the

[12] See www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf.

[13] See www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf.

essential content of human rights.[14] Furthermore, any trade-off leading to a retrogressive level of protection of a human right should be treated as highly suspect, and instead solutions should be found where losses and gains were shared across groups. He stressed that international financial institutions also had human rights obligations and should perform human rights impact assessments, for example with regard to austerity measures. Economic, social and cultural rights should be seen as a tool for sound macroeconomic policies. He noted that economic growth was not an end in itself, and that the goal should be full human development grounded on a human rights-based approach.

44. Ms. Abdul Rahim referred to the development of the Arms Trade Treaty[15] as a good example of how civil society-driven initiatives could result in the creation of a legally binding instrument aimed at preventing human rights violations related to conventional arms, munitions, parts and components. Its article 7 required States parties not to authorize an arms export where there was an overriding risk that, among other things, the conventional arms or items could be used to commit or facilitate a serious violation of human rights law, or that the conventional arms or items would contribute to or undermine international peace and security. Amnesty International had developed a three-step methodology with elements to consider when forming a judgment as to when there was an overriding risk that such violations could occur.[16]

45. She noted that States parties to the Arms Trade Treaty must consider whether there were measures that could be undertaken to mitigate the risk, among other things, of the commission or facilitation of a serious violation of international human rights law. If the exporting State party determined that there was an overriding risk of the negative consequences listed in article 7 (1), it must not authorize the export. The analysis of "overriding risk" should be carried out by competent national authorities, on the basis of an objective and non-discriminatory consideration of all available evidence of the past and present circumstances in the recipient country regarding the proposed end use and end user. In terms of ratification and implementation of the Arms Trade Treaty, she stressed that the universal periodic review could play an important role in encouraging an increase in the number of States parties, in exchanging good practices and in collectively reassessing progress.

46. Ms. Philpot-Nissen argued that States should use the universal periodic review to call for the signature, ratification and implementation of the Treaty on the Prohibition of Nuclear Weapons[17] in States under review. Once it reached ratification by 50 States, the treaty would prohibit a range of nuclear weapon-related activities. She noted that the use of nuclear weapons had catastrophic humanitarian consequences and required a human rights impact assessment. The health impacts on the Japanese population after nuclear weapons were used during the Second World War had been well documented throughout the lives of survivors.

47. She noted that ionizing radiation from nuclear weapons caused particular harm to certain groups of people, including women, children, and indigenous peoples who relied heavily on an unaffected environment. The Treaty on the Prohibition of Nuclear Weapons called for age-sensitive and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support. The International Campaign to Abolish Nuclear Weapons, a global civil society coalition, had received the Nobel Peace Prize in 2017 for its groundbreaking efforts to achieve a treaty-based prohibition of such weapons. Furthermore, she noted that the Human Rights Committee, in its draft general comment No. 36 on the right to life, referred to necessary measures by States to stop the proliferation of nuclear weapons.

[14] See A/HRC/19/59/Add.5, appendix, paras. 6.3–6.5.

[15] See General Assembly resolution 67/234 B. See also A/HRC/35/8, www.icrc.org/en/publication/4252-understanding-arms-trade-treaty-humanitarian-perspective and wilpf.org/wilpf_publications/gender-based-violence-and-the-arms-trade-treaty/.

[16] See www.amnesty.org/en/documents/document/?indexNumber=act30%2F0003%2F2015.

[17] A/CONF.229/2017/8.

48. During the discussion, participants noted that in some countries victims felt unable to report human rights violations, and thus the absence of complaints could be an early warning sign. In the context of Sustainable Development Goal 16, the proportion of crimes reported and the rate of sentencing should be examined both with numerical indicators and qualitative indicators. Furthermore, a human rights-based dialogue was needed between those who collected the data and those who used it.

E. Prevention in practice at the local and regional levels

49. The Chief of the Asia-Pacific Section of OHCHR moderated the session focusing on prevention in practice at the local and regional levels. The panellists were Raju Chapagai, head of the Juri Nepal civil society organization in Kathmandu; Budi Tjahjono, Asia-Pacific programme coordinator at Franciscans International; and Yves de Matteis, President of the Human Rights Commission of the Geneva Parliament and project manager for the bureau for the integration of foreigners of the State of Geneva.

50. Mr. Chapagai shared his experiences of using strategic litigation to combat impunity in Nepal. Civil society organizations and victims' groups had used strategic litigation to challenge laws, policies and attitudes of the authorities favouring impunity. He referred to several examples of litigation — including to hold the Government accountable for developing a system of vetting, to outlaw amnesties for serious crimes, and to prevent the arbitrary withdrawal of criminal prosecutions. With regard to the latter, the court had established a list of exempted cases not permissible for withdrawal and the Government had subsequently revised its policy guidelines and procedures. Furthermore, strategic litigation had yielded court decisions that had secured the criminalization of serious violations, including enforced disappearance and torture.

51. He noted a key message emerging from recent domestic jurisprudence, namely that the establishment of transitional justice mechanisms must not displace the role of the criminal justice system, but that they should complement each other. Civil society organizations had initiated and supported several habeas corpus petitions to protect people from arbitrary detention and enforced disappearance. Furthermore, their regular visits to places of detention and their monitoring at the grass-roots level had reduced incidents of torture and other human rights violations.

52. Mr. Tjahjono provided an example of mining operations and their negative impact on the rights of indigenous peoples. He stated that an open pit copper and gold mining project had been accompanied by threats, arrests, killings, displacement, lack of consultations, and failure to secure free, prior and informed consent. The project had been symbolic for advocacy in terms of the importance of dialogue between affected communities and local government. Human rights impact assessments had been undertaken by academics, who had found that the project would have an adverse impact on the indigenous peoples concerned.

53. He emphasized the importance of linking local human rights advocacy with the international level, such as treaty bodies, the universal periodic review and special procedures. With regard to the latter, he referred to the Special Rapporteur on the rights of indigenous peoples and the Working Group on the issue of human rights and transnational corporations and other business enterprises. He noted that local populations sometimes felt left behind, and that advocacy tactics had not been inclusive enough. In addition, there was an implementation gap of international norms and standards, as oftentimes national governments did not abide by the requirement of free, prior and informed consent by indigenous peoples, in order to take advantage of lucrative mining projects.

54. From the local level, Mr. de Matteis relayed his experience as President of the Human Rights Commission of the Geneva Parliament. The Commission could choose to address virtually any subject without being specifically summoned to do so by the Geneva Parliament. The Commission had, for example, addressed prejudice and discrimination in schools, by commissioning a related study based on interviews with teachers, adult professionals, students and pupils. The focus had initially only been on preventing racism and religious intolerance, however the commissioners had decided to also include

discrimination based on gender, sexual orientation and gender identity and expression, and on disability.

55. Mr. de Matteis stressed that prejudices and discrimination had to be approached in a holistic manner in order to show that no form of discrimination was more acceptable than another, thereby also creating a new form of solidarity between all students and pupils regardless of their differences. At the same time, he highlighted the need to look into the details and examine in what way various prejudices and forms of discrimination may have their own characteristics and mechanisms. He noted that teachers could also be the object of prejudice and discrimination, including sexism and homophobia.

56. In the discussion, it was suggested to see children not only as recipients of human rights education but also as participants and stakeholders. Very few children attended sessions of the Human Rights Council or treaty bodies, and thus they did not influence the discourse themselves. However, there had been positive examples of children engaging with the universal periodic review and the Committee on the Rights of the Child, including in pre-sessional lobbying. Furthermore, political change often started at the grass-roots level, which may then trickle up to the national and international levels. Participants also stressed the importance of human rights cities, which explicitly referred to the Universal Declaration of Human Rights and other human rights standards in their municipal policies.

F. Contribution of the United Nations to prevention

57. The Chief of the Prevention and Sustaining Peace Section of OHCHR in New York moderated the final session, which focused on the contribution of the United Nations to prevention. The panellists were Pablo de Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Malcolm Evans, Chair of the Subcommittee on Prevention of Torture; and Diego Zorrilla, Resident Coordinator and United Nations Development Programme Resident Representative in Tunisia.

58. Mr. de Greiff referred to his recent reports, in which he had presented an extended argument in favour of a framework approach to prevention.[18] He emphasized the important contributions of civil society, which had led, for example, to the abolition of slavery and to desegregation in many parts of the world, and to the expansion of voting rights and successful democratizing transitions. He noted that the work on prevention tended to concentrate on early warning and crisis prevention, and was focused on official State institutions, however he suggested that the prevention agenda should be enlarged to include civil society and interventions in the cultural and individual spheres.

59. In his opinion, the main challenges did not relate to a lack of knowledge but to the low degree of commitment and investment, late interventions and the fragmentation of expertise. Prevention strategies should also include general processes of institutionalization or constitutionalization (at the macro level), effective civilian oversight over security forces (at the meso level) and community policing strategies (at the micro level). He stressed that the United Nations system had a privileged position in articulating a holistic framework of prevention with a broad and upstream approach. He noted that the United Nations had been part of the problem due to its focus on early warning and turf wars between different agencies. He also suggested that the United Nations should improve how it worked with civil society, and should broaden its collaboration beyond non-governmental organizations. The special procedures could also be used more effectively to strengthen the contribution of civil society to prevention work. He recommended fostering networks of civil society organizations, which could facilitate the exchange of knowledge and diminish risks for human rights defenders.

60. Mr. Evans highlighted the experience of practical prevention in the treaty body system through the Subcommittee on Prevention of Torture. Since 2007, the Subcommittee had conducted 65 missions to States parties, visited over 1,000 places of detention and spoken to more than 10,000 detainees. Every State party was also obliged to have a national

[18] A/HRC/30/42, A/70/438, A/72/523 and A/HRC/37/65.

preventive mechanism. Preventive visiting was about understanding the situation, and seeing what could be suggested to address problems or to make it less likely that human rights violations would take place. Thus the Subcommittee worked at the primary, secondary, tertiary and primordial levels.

61. He noted that the process was confidential, so that the Subcommittee could work with the State to improve the situation through practical and implementable recommendations. In one place of detention, for example, prisoners had not been let out of their cells for months because the front gates had fallen off, and therefore the Subcommittee had recommended fixing the front gates so that detainees could again exercise in the prison compound. Further practical and context-specific recommendations included paying prison officials properly and teaching them to read and write so that they could keep effective records. Finally, he stressed the importance of working with people who understood the local situation and empowering people at the national level to make a difference for human rights.

62. Mr. Zorrilla focused on the role of United Nations country teams and resident coordinators in preventing conflict and human rights abuses. While there seemed to be a tension between development and human rights, he argued that that perception should be overcome and we should rather focus on a human rights-based approach. United Nations country teams monitored the human rights situation, interacted with treaty bodies and special procedures, and reported on political developments that could pose a threat to peace and human rights.

63. Mr. Zorrilla noted that the United Nations country team in Tunisia was in a privileged position to articulate a preventive framework with good and broad cooperation. In 2012, the United Nations had provided technical support to the different commissions drafting the constitution and had helped civil society play a role in the legislative process. The adoption in July 2017 of a law on violence against women had been preceded by the provision of United Nations support to the Parliament since 2014, which had showed gaps between national law and the Convention on the Elimination of All Forms of Discrimination against Women. The United Nations had also supported the development of a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Further areas of focus included human rights education and planning and monitoring tools, including in relation to the Sustainable Development Goals. Finally, he noted that the Secretary-General's Human Rights Up Front initiative enabled the United Nations system to get together when there were situations of concern in a country; a regional monthly review had been activated in January 2018 in reaction to protests and to lack of freedom for all protests in Tunisia, which had been triggered by concerns about economic, social and cultural rights.

IV. Conclusions

64. **Participants in the expert workshop echoed the Secretary-General's statement that the Universal Declaration of Human Rights, and the international treaties deriving from it, constituted the best prevention tool, since they identified many of the root causes of conflict, but equally, provided real-world solutions.**[19]

65. **Prevention can encompass four types of measures: primary prevention addresses the root causes; secondary prevention focuses on a rapid response to the earliest signs; tertiary prevention aims to minimize harm once the problem is in full flight; and primordial prevention focuses on minimizing future threats and maximizing conditions that are antithetical to human rights erosion over the longer term.**

[19] See www.un.org/sg/en/content/sg/speeches/2017-02-27/secretary-generals-human-rights-council-remarks.

66. **Prevention requires building resilient societies, and implementation of international human rights law at the domestic level. The focus of prevention should not be limited to civil and political rights, since inequalities and violations of economic, social and cultural rights are at the root of instability and violence around the world. The primary responsibility is on States to strengthen rule of law institutions and provide effective frameworks for all prevention efforts, including those of civil society actors, academics and national human rights institutions. With a view to preventing human rights abuses, participants highlighted the due diligence responsibility of private companies.**

67. **A society well equipped to overcome crises is one where people know and can claim their rights, for example with the help of legal aid. Participants suggested more focus on and investment in human rights education accessible to all, including for children, teachers, law enforcement officers and prisoners. Democratic societies also imply the possibility for a free media to ensure access to information by all. Civil society and national human rights institutions must be able to fulfil their monitoring, reporting and advocacy functions. However, as cooperation with international human rights mechanisms entails risks in practice, tackling reprisals against human rights defenders was considered key.**

68. **Participants highlighted the important contribution of the United Nations to prevention, including through its country teams and human rights mechanisms. Finally, they emphasized the usefulness of several tools for effective prevention, including indicators in the context of the 2030 Agenda for Sustainable Development, and human rights impact assessments of trade and investment agreements and of arms transfers.**